

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 16 Types of Subcontracts
Subject: 16.4 Basic Ordering Agreements

PURPOSE:	The purpose of this standard practice (SP) is to define the circumstances under which basic ordering agreements (BOAs) may be used.
POLICY:	A basic ordering agreement should be used as a mechanism to expedite subcontracting for uncertain quantities of goods or services when specific items, quantities, or prices are not known at the time the agreement is executed but a substantial number of requirements are anticipated.
SCOPE:	This SP applies to all BOAs.
Exception	This SP does not apply to architect-engineer or construction subcontracts.
DEFINITION:	
Basic Ordering Agreement (BOA)	A basic ordering agreement (BOA) is a written instrument of understanding (not a subcontract) negotiated between the Laboratory and a subcontractor that sets forth the terms and conditions that apply to a subcontract issued against it. The agreement includes clauses applicable by statute or otherwise required under the terms of the Laboratory's Prime Contract.
PROCEDURES:	
Background	A BOA should be used when specific items, quantities, and prices are not known at the time the agreement is executed but a substantial number of requirements for the types of goods or services covered by the agreement are anticipated to be purchased from the subcontractor. See Exhibit 16.4a, <i>Elements of Ordering Agreements</i> , for a description of the elements of ordering agreements.
Limitations	<p>A BOA must not be used to restrict competition, obligate Laboratory funds, or imply any agreement to place future subcontracts. A BOA must:</p> <ul style="list-style-type: none">• Describe the method for determining the prices to be charged to the Laboratory;• Specify the method of delivery or how delivery will be determined;• Identify the ordering mechanism and specify authorized ordering points, if applicable. The other UC Laboratories may be authorized to order under BOAs issued by one of the Laboratories;

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- Stipulate when a future subcontract is binding (upon issuance, upon acceptance by the subcontractor in a specified manner, etc.);
- Provide that failure to reach agreement on price for any subcontract issued is a dispute under the *Disputes* clause of the BOA (see SP 33.2, *Disputes and Claims*); and
- Specify the term of the BOA.

Ordering

BOAs are not contracts. BOAs only set forth the terms and conditions that future subcontracts will use when issued under the BOA. Individual subcontracts must be issued and processed according to normal procurement procedures and must include the following information:

- The BOA number;
- The effective date and term of the BOA;
- The items and/or services being purchased;
- The quantities;
- The price(s);
- The cost and program codes, if applicable;
- The delivery date(s); and
- Any other information that the procurement specialist deems necessary and that does not conflict with the terms and conditions of the BOA.

In addition to the above information, the essential elements of each subcontract issued under the BOA (i.e., requester, a determination that the prices are fair and reasonable, and cost and program codes if applicable) must be documented in the subcontract file or captured in the appropriate management information system.

Because BOAs are not considered to be competitive, competition must be obtained, when appropriate, for subcontracts issued against a BOA.

Applicable Justifications

Subcontracts issued against a BOA are subject to the same justification and documentation requirements, considering the anticipated expenditure or the estimated value, as other subcontracts.

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Unpriced Subcontracts

If it is necessary to issue a subcontract under a BOA before establishing the subcontract price, a ceiling on the Laboratory's obligation must be established.

Annual Review

Each BOA must be reviewed annually to ensure conformance with Prime Contract and other mandatory requirements. The review will be documented in the BOA file. A BOA may be modified if the Laboratory and subcontractor accept the modification(s) in writing. A BOA can be changed only by modifying the agreement itself and not any subcontract issued against it. Modifying a BOA does not retroactively affect the subcontracts previously issued against it.

REVIEWS/ APPROVALS:

Subcontracts awarded under a BOA are subject to the same review and approval requirements, considering expected expenditures or estimated value, as an individual subcontract (see SI 1.2, *Delegation of Procurement Authority*).

RESPONSIBILITIES:

Procurement Specialist

The procurement specialist must:

- Avoid use of BOAs to restrict competition or imply any agreement to place future subcontracts;
- Include the required elements in each BOA;
- Comply with normal procurement requirements when placing subcontracts under a BOA; and
- Review each BOA annually for conformance to Prime Contract and other mandatory requirements.

REFERENCES:

Prime Contract Clause I.114 – Contractor Purchasing System

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Elements	Blanket Purchase Agreement	Blanket Subcontract	Basic Ordering Agreement
Agreement on Terms and Conditions	X	X	X
Prenegotiated Prices		X	Optional
EEO Preaward Compliance Required (exceeding \$10 million)		X	X
Release Issued by Authorized Laboratory Personnel	X	X	
Small Purchase Limitation on Releases	X		
Oral Releases Authorized	X	X	